



**DEPARTMENT OF FINANCE & BUDGET
INTEROFFICE MEMORANDUM**

TO: Board of County Commissioners
VIA: Terry Shannon, County Administrator *TL5*
FROM: Tim Hayden, Director of Finance and Budget *TH*
DATE: July 7, 2015
SUBJECT: Public Hearing – Third Amendment of Sheriff's Department Pension Plan

Background:

The Assistant Sheriff contacted the pension plan attorney and requested the attached amendment.

A public hearing is required for the adoption of an ordinance. For the Board of County Commissioners to adopt a pension plan amendment, an ordinance must be adopted. A public hearing has been scheduled for July 21, 2015, at 10:30 a.m., for the purpose of receiving public comment and for your review and discussion of this proposed pension plan amendment.

Discussion:

The Board of Trustees of the Sheriff's Department Pension Plan met twice, discussed, and voted to recommend to the Board of County Commissioners that this amendment not be adopted. A letter from the Board of Trustees is attached.

Conclusion/Recommendation:

This information is being provided for your consideration.

CALVERT COUNTY SHERIFF'S DEPARTMENT PENSION PLAN

175 Main Street

Courthouse

Prince Frederick, Maryland 20678

Phone: (410) 535-1600 (301) 855-1243

FAX: (410) 535-0385



Board of Trustees

Rebecca A. Flanagan

Timothy Hayden

Captain Steven R. Jones

Michael L. Moore, Jr.

Dominic B. Raino

Jason Robshaw

Terry L. Shannon

Cpl. Joshua Underwood

Jacqueline K. Vaughan

07/08/2015

Calvert County Government
Board of County Commissioners
175 Main Street
Prince Frederick, Maryland 20678

Dear Commissioners:

The Board of Trustees of the Sheriff's Department Pension Plan met on July 1, 2015 to discuss an amendment being proposed by the upper management of the Sheriff's office. The Board of Trustees is recommending that the Board of County Commissioners not adopt this amendment.

There is no requirement that plan amendments be reviewed and approved by the plan trustees. The Board of County Commissioners has the sole authority to adopt amendments to the plan. In practice, however, the Board of County Commissioners has relied on the Board of Trustees, a group of 3 citizens, 3 members of the Sheriff's office, one of which is a retired member, and three county employees, including the County Administrator, the Director of Public Safety and the Director of Finance and Budget, in all matters related to the plan.

These board members are fiduciaries of this plan with a legal responsibility to:

- Manage and Control the trust fund
- Interpret the plan and resolve disputes
- Authorize payment of benefits
- Handle benefit claims and appeals
- Employ and authorize payments to required professionals

The Board of Trustees decisions are required to benefit participants (of the plan), not the County or other persons or entities.

With respect to the proposed amendment, The Board of Trustees finds that this amendment has a negative impact on the plan and is inequitable to the majority of the plan members.

The newly retired member will no longer be required to make their contribution to the plan. This is why the amendment will have a negative impact on the plan. Determining the cost impact of most changes to a defined benefit plan is a guess. There are many variables that just cannot be predicted absolutely. Projecting the plan members' actions to a change can be difficult.

This amendment allows the Sheriff to select up to three members of the plan to retire, on paper, and begin to draw retirement benefits while coming back to work in their same position, entitled to the same County benefits that they were entitled to prior to their retirement. In substance, they have not retired. The availability of this option for three members, selected by the sheriff, is considered inequitable by the Board of Trustees.

For these reasons, our recommendation is not to adopt this amendment.

Sincerely,

A handwritten signature in blue ink that reads "Board of Trustees". The script is cursive and fluid.

Board of Trustees, Sheriff's
Department Pension Plan

ORDINANCE NO. _____

**PERTAINING TO THE THIRD AMENDMENT OF THE
CALVERT COUNTY SHERIFF'S DEPARTMENT PENSION PLAN**

WHEREAS, the Board of County Commissioners of Calvert County, Maryland (the "County"), approved Ordinance No. 50-10 which adopted the Calvert County Sheriff's Department Pension Plan (the "Plan"), as amended and restated effective as of July 1, 2010; and

WHEREAS, the County now desires to amend the Plan to exclude from participation any Deputy Sheriff or Correctional Officer who by contract has waived the right to participate in the Plan during periods of employment covered by that contract; and

WHEREAS, Section 14.1 of the Plan authorizes the County to amend the Plan from time to time.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the Board of County Commissioners of Calvert County, Maryland, that, effective as of the date of enactment of this ordinance, the Plan be amended and hereby is amended by adding the following new subparagraph immediately at the end of Section 1.14:

(iii) any Deputy Sheriff or Correctional Officer (i) whose position is funded in full by a source or sources other than the County and (ii) who by the express terms of his or her employment contract is denied the right or has waived the right to participate in this Plan during employment pursuant to that contract; provided, however, that an individual shall not be excluded under this subparagraph if on the date of the commencement of his or her employment under that contract there are three other individuals to whom this exclusion then applies, it being intended that no more than three individuals shall be excluded under this subparagraph at any given time. This exclusion shall not subsequently apply to that individual until such time as there are less than three individuals subject to this exclusion and that individual's employment contract is expressly modified to confirm that individual's exclusion under this subparagraph.

BE IT FURTHER ENACTED AND ORDAINED, by the Board of County Commissioners of Calvert County, Maryland, that, effective as of the date of enactment of this ordinance, Section 5.1 of the Plan be amended and hereby is amended by adding the word "Active" immediately before the word "Member" at each place that it appears in Subsections 5.1(a) and 5.1(b), so that the phrase "Active Member" is substituted for the word "Member" throughout those Subsections.

[THIS SPACE INTENTIONALLY LEFT BLANK]

DONE, this _____ day of _____, 2015, by the Board of County Commissioners of Calvert County, Maryland, sitting in regular session.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
OF CALVERT COUNTY, MARYLAND**

Maureen L. Frederick, Clerk

Steven R. Weems, President

Evan K. Slaughenhaupt, Jr., Vice President

Mike Hart

Sufficiency on

Tom Hejl

By: _____
Edward J. Adkins, Plan Attorney

Pat Nutter